

COASTAL CONSERVANCY

Staff Recommendation
May 24, 2012

BRENTWOOD FARMLAND PROTECTION: STENZEL CONSERVATION EASEMENTS

Project No. 11-046-01
Project Manager: Melanie Denninger

RECOMMENDED ACTION: Authorization to disburse up to \$1,371,450 to the Brentwood Agricultural Land Trust to acquire an agricultural conservation easement over each of the four parcels that constitute the 166-acre Stenzel property.

LOCATION: Unincorporated Contra Costa County, within the City of Brentwood's General Plan Area

PROGRAM CATEGORY: San Francisco Bay Area Conservancy Program

EXHIBITS

- Exhibit 1: [Project Location and Site Map](#)
 - Exhibit 2: [Contra Costa County Urban Limit Line and Agricultural Core](#)
 - Exhibit 3: [Existing Protected Farmlands in Agricultural Core](#)
 - Exhibit 4: [Property Photographs](#)
 - Exhibit 5: [Project Letters](#)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31165 of the Public Resources Code:

"The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed \$1,371,450 (one million three hundred seventy-one thousand four hundred fifty dollars) to the Brentwood Agricultural Land Trust toward acquisition of an agricultural conservation easement over each of the four contiguous parcels that constitute the 166-acre Stenzel property in unincorporated Contra Costa County (Assessor's Parcel Nos. 011-050-027, 011-050-028, 011-050-029 and 011-050-031), subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds for acquisition, the Brentwood Agricultural Land Trust shall submit for review and approval of the Executive Officer of the Conservancy (the "Executive Officer"):

- a. All relevant acquisition documents, including, without limitation, appraisals, purchase agreements, the conservation easements, escrow instructions and documents of title.
 - b. For each of the parcels, a baseline conditions report certified by the Brentwood Agricultural Land Trust and a monitoring and reporting plan.
 - c. Documentation that all other funds necessary for the acquisitions have been obtained.
2. The purchase price of the conservation easements shall not exceed fair market value, as established in an appraisal approved by the Executive Officer.
 3. The easement interests acquired under this authorization shall be managed and operated in a manner consistent with the purposes of agricultural conservation, open space preservation and natural resource protection. The property interests acquired under this authorization shall be permanently dedicated to those purposes in accordance with Public Resources Code Section 31116(b).
 4. Conservancy funding shall be acknowledged by erecting and maintaining on the property a sign, the design and placement of which has been reviewed and approved by the Executive Officer.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160-65) regarding the preservation of agricultural lands.
3. The Brentwood Agricultural Land Trust is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, whose purposes, which include the preservation of land for agricultural and open space uses, are consistent with Division 21 of the Public Resources Code.”

PROJECT SUMMARY:

Staff recommends the disbursement of an amount not to exceed \$1,371,450 (one million three hundred seventy-one thousand four hundred fifty dollars) to the Brentwood Agricultural Land Trust (“BALT”) toward acquisition of an agricultural conservation easement over each of the four contiguous parcels that make up the 166-acre Stenzel property in unincorporated Contra Costa County (the “County”) near the City of Brentwood (the “City”) (Exhibit 1). The Stenzel property is a valuable and strategically located farmland property. With its high-quality soils, reliable water supply, and ideal depth to water table, the Stenzel property is well-suited for growing a wide variety of irrigated crops. The property is located in the County’s 12,000-acre Agricultural Core (Exhibit 2) and is close to Bay Area markets in an area with well-developed agricultural infrastructure and a long-growing season. It is also one of the largest blocks of agricultural land in the Agricultural Core, an area characterized by small, but productive parcels.

As witnessed by the history of extensive conversion of prime agricultural land in the Brentwood area and elsewhere, active conservation measures are needed to ensure continued food production adjacent to urban centers in the Bay Area. Additional information about the Stenzel property and prior farmland conversion in the vicinity are provided in the “Site Description” and “Project History” sections below.

Under the proposed project, BALT would purchase, hold and monitor an agricultural conservation easement over each of the four contiguous parcels that make up the Stenzel property, adding to the approximately 677 acres of irrigated farmland in the Agricultural Core that are already protected by agricultural conservation easements held by BALT and others (Exhibit 3). In the future, the property could be farmed in a range configurations to meet market demands, from one 166-acre unit to four parcels of just over 40 acres each. The 40+-acre parcels may be more affordable for newer, younger farmers getting started.

The easements would comply with the easement standards adopted by the Conservancy on May 24, 2007 (the “easement standards”). In particular, the easements would require that baseline reports and monitoring plans consistent with the easement standards be prepared and approved by the Conservancy’s Executive Officer prior to close of escrow, and the easements would contain all essential provisions required by the easement standards to fully protect the public benefits of agriculture, open space and scenic values.

The total project costs are estimated at \$2,030,550, including \$1,995,000 for purchase of the agricultural conservation easement and approximately \$35,550 for associated appraisal and transaction costs. Staff’s recommendation is that the Conservancy contribute \$1,355,000 toward the purchase price and up to \$16,450 for transaction costs incurred after the proposed grant authorization, for a total of \$1,371,450. At its April 24, 2012 meeting, the City Council approved a match to cover the balance of \$640,000 for the purchase. Under the terms of a Memorandum of Understanding between the City and BALT, the City will also contribute up to \$19,100 as needed for transaction costs. In addition, at close of escrow, BALT anticipates receiving approximately \$71,000 from the seller for future easement monitoring costs.

The purchase price estimate is based upon an appraisal which was completed in August 2010 and updated in November 2011. While the November 2011 update concluded that the implied value of the agricultural easements had increased since August 2010, the Stenzel family has agreed to sell at the August 2010 implied value. Disbursement of Conservancy funds would be contingent upon the Executive Officer’s approval of both appraisals and other project documents.

BALT is a nonprofit 501(c)(3) organization whose purpose is farmland preservation within Contra Costa County. BALT was created pursuant to an ordinance adopted by the City Council in 2002. It is administered by a board of directors that is independent of the City, but has received extensive funding from the City to-date for project development and acquisition of conservation easements. Since its creation, BALT has acquired conservation easements over some 521 acres in the Agricultural Core adjacent to the City.

Site Description: The 166-acre Stenzel property is located on Marsh Creek Road, a major view corridor in Contra Costa County between the City of Brentwood and the community of Discovery Bay (Exhibits 1 and 4). Starting in the 1990s, the City and the surrounding area experienced explosive growth, with the City’s population growing from 7,500 in 1990 to 56,000 today. The population boom has been accompanied by extensive conversion of prime irrigated

farmland to urban uses. According to the Department of Conservation's California Farmland Mapping and Monitoring Program statistics, Eastern Contra Costa County—which encompasses the project vicinity—lost almost 16,000 acres of its most fertile farmland during the boom, a decline of almost forty percent in the County's prime farmland. (Additional history is provided below in "Project History.")

While the Stenzel property is outside the County-designated urban limit line for the City, it is encompassed by the City's General Plan, which designates its land use as "Agriculture Conservation." The County's General Plan designates the land use as "Agricultural Core" (Exhibit 2). The maximum residential density allowed in the Agricultural Core is one unit per 40 acres. In addition to residences and the production of food, fiber and plant materials, allowable uses in the Agricultural Core include such agricultural enterprises as facilities to produce value-added agricultural products and farm markets for direct sale to consumers of locally grown agricultural products, as well as oil and gas exploration and extraction.

Similar to most of the remaining farmland within the Agricultural Core, as well as to the farmland converted during the City's boom, the Stenzel property is virtually flat. It is used to raise irrigated crops—currently tomatoes and Brentwood sweet corn (Exhibit 4). The property has exceptional soil quality—Capay clay, Brentwood clay loam, and Sorrento clay loam—and a relatively deep water table which provides the flexibility to grow fruit and nut trees without encountering saturated soil. Water is supplied by the Byron Bethany Irrigation District, with ample water available for agricultural purposes at the relatively low current rate of approximately \$20 per acre-foot. The Stenzel property is also especially important for continued farmland production because, unlike the characteristic scattered ownership and many 10-acre parcels in the Agricultural Core, it encompasses 166 acres in four contiguous 40-acre parcels.

The Agricultural Core properties already protected by agricultural conservation easements, along with those not yet protected, are shown on Exhibit 3. Immediately adjacent to the Stenzel property are two 40-acre properties which have already been protected by agricultural conservation easements.

Project History: In 2002, following several years of the rapid growth and extensive conversion of prime irrigated farmland mentioned above, the City adopted an ordinance requiring that developers who convert agricultural land within the City to urban uses pay a mitigation fee to be administered by the City. The original ordinance specified that the fees collected were to be used only for the purchase of agricultural conservation easements, but the ordinance was later modified to allow use of the mitigation fees for certain economic development purposes related to agriculture and for administration. During the early 2000s, the City collected some \$12,000,000 in mitigation fees, including the funds that the City Council has committed to contributing toward BALT's acquisition of conservation easements over the four contiguous parcels making up the Stenzel property. With this contribution, the City's agricultural mitigation funds will be largely depleted unless and until it allows additional conversion of agricultural land to urban uses.

The 2000s have also seen placement of several measures on local ballots to expand the City into surrounding farmlands. While the measures failed by narrow margins, they have been supported by the City Council and provide evidence of continuing pressure for conversions of farmlands to urban uses.

In cooperation with the City and County, and with additional assistance from the California Department of Conservation, BALT has been protecting farmland in the Agricultural Core outside the City by acquiring conservation easements for farmland protection since it was established in 2002. In 2003, the BALT board identified the Stenzel property as a strategic property for easement acquisition because of the soil and water table and because it is one of the largest, highest quality farmland properties in the eastern County. BALT has been working with the property owners and the City for the past two years to permanently protect the property with agricultural conservation easements.

PROJECT FINANCING

Coastal Conservancy	\$1,371,450
City of Brentwood	<u>\$659,100</u>
Total Project Costs	\$2,030,550

The anticipated source of Conservancy funds is the FY 09/10 appropriation to the San Francisco Bay Conservancy Program from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 ("Proposition 84"; Public Resources Code Sections 75000 *et seq.*). This funding source may be used to carry out projects pursuant to the Conservancy's enabling legislation, Chapter 4.5 of Division 21 of the Public Resources Code. The acquisition of the easements over the Stenzel property would serve to stem development of existing agricultural lands and open space.

Proposition 84 also requires that, for acquisition projects that protect natural resources, the Conservancy assess whether the project meets one or more criteria specified in Section 75071. The proposed project satisfies the criterion regarding matching funds with an expected non-state matching contribution of approximately 1:2 from the City of Brentwood. (Pub. Resources Code § 75071(e))

Finally, as required by Section 75071, Conservancy staff has submitted to the Resources Agency and has posted on the Conservancy's website an explanation as to how the proposed acquisition meets the criteria of this section.

At its April 24, 2012 meeting, the Brentwood City Council approved a contribution of \$640,000 toward acquisition of the Stenzel conservation easements. Under a Memorandum of Understanding with BALT, the City has also agreed to contribute up to \$19,100 for associated transaction costs, all from its Agricultural Mitigation Fund.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project would be undertaken pursuant to Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160-31165) which authorizes the Conservancy to undertake projects and award grants in the nine-county San Francisco Bay Area to public agencies and private organizations.

Consistent with Section 31162, the proposed agricultural conservation easements are located in Contra Costa County, one of the nine Bay Area counties, and would help to achieve the primary goals of the San Francisco Bay Area Conservancy Program by protecting open space and a scenic area of regional importance (Section 31162 (b)) and assisting with the implementation of

the Contra Costa County General Plan (the “General Plan”) (Section 31162(c)). The Stenzel property is located in the area near the City of Brentwood which the County General Plan designates as the Agricultural Core, giving it the highest priority for continuation of farming. Acquisition of an agricultural conservation easement over each of the four contiguous parcels that make up the Stenzel property will ensure that the property can continue in agriculture and further the General Plan.

In addition, the proposed project satisfies all of the five criteria for determining project priority under Section 31163(c), as follows: 1) the project is supported by the County General Plan, which identifies the land use on and around the property to be Agricultural Core; 2) the project serves a multi-jurisdictional constituency, permanent protection of the property would enable continued farming of highly productive farmland close to urban markets and also would help preserve open space and scenic areas for the enjoyment of visitors who come from around the region to this farmland area; 3) the project can be implemented in a timely way, as BALT and the landowner have reached agreement on general terms which are consistent with the Conservancy’s interests and requirements and matching funds have been committed by the City of Brentwood; 4) if the opportunity afforded by the downturn in the economy to acquire these easements is not taken advantage of, the price of the property may rise and make easement acquisition infeasible due to the dwindling Agricultural Mitigation funds available from the City of Brentwood; and 5) the Conservancy’s proposed contribution toward acquisition of the easements would be matched almost 1(City):2 (Conservancy) by a contribution from the City of Brentwood.

**CONSISTENCY WITH CONSERVANCY’S 2007
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 12, Objective A** of the Conservancy’s 2007 Strategic Plan, the proposed project would protect 166 acres of farmland in Contra Costa County, one of the Bay Area counties.

**CONSISTENCY WITH CONSERVANCY’S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy’s Project Selection Criteria and Guidelines, last updated on November 10, 2011, in the following respects:

Required Criteria

1. **Promotion of the Conservancy’s statutory programs and purposes:** See the “Consistency with Conservancy’s Enabling Legislation” section above.
2. **Consistency with purposes of the funding source:** See the “Project Financing” section above.
3. **Support of the public:** As shown by the support letters attached as Exhibit 5 and by the City’s commitment of matching funds, the proposed project has strong community support.

4. **Location:** The proposed project is located between the City of Brentwood and the community of Discovery Bay in unincorporated Contra Costa County. The proposed project would benefit the San Francisco Bay Region by protecting agricultural, open space and scenic values in Contra Costa County, within the nine-county Bay Area.
5. **Need:** The proposed project is not likely to be feasible without Conservancy funding, as the sources upon which BALT has relied for past acquisitions are not available for this project and it has not been able to find sources other than the Conservancy and the City.
6. **Greater-than-local interest:** The proposed project would serve greater-than-local interest by helping ensure the continued viability of food production close to the markets of the Bay Area region and by protecting open space and scenic areas for the enjoyment of visitors from around the region.
7. **Sea level rise vulnerability:** Given current predictions of the rate of sea-level rise, and because of its elevation of approximately 50 feet above sea level and its distance of approximately three miles from any tidally influenced waterway, the property that is the subject of the proposed project would not be vulnerable to rising sea level for well over 100 years.

Additional Criteria

8. **Urgency:** If the opportunity afforded by the downturn in the economy to acquire this easement is not taken advantage of, the price of the property may rise and make a conservation acquisition infeasible. In addition, the dwindling Agricultural Mitigation funds currently available from the City of Brentwood as a match may have been exhausted.
10. **Leverage:** See the “Project Financing” section above.
13. **Readiness:** The project can be implemented in a timely way, as BALT and the landowner have reached agreement on general terms of purchase and sale which are consistent with the Conservancy’s interests and easement requirements and matching funds have been committed by the City of Brentwood.
14. **Realization of prior Conservancy goals:** See “Project History” above.”
15. **Cooperation:** The proposed project would demonstrate cooperation among State and local agencies (funding from the Conservancy and the City of Brentwood) and a private nonprofit organization (negotiating purchase, assembling funding, and acquiring and monitoring the easements by BALT).

COMPLIANCE WITH CEQA:

Acquisition of agricultural conservation easements over each of the four contiguous parcels that constitute the Stenzel property is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations Section 15325 because it involves the transfer of ownership interests in land to preserve open space and to allow for continued agricultural use of the property. Staff will file a Notice of Exemption upon approval of the project.